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Chicago's Government

**AN INTERPRETIVE SUMMARY OF THE REPORT
OF THE CHICAGO HOME RULE COMMISSION**

BY

**Rubin G. Cohn and
Gilbert Y. Steiner**

THE INSTITUTE OF GOVERNMENT



and PUBLIC AFFAIRS

ILLINOIS HISTORICAL SURVEY

CHICAGO'S GOVERNMENT

The material reproduced in this booklet constitutes most of Chapter XVI of the Report of the Chicago Home Rule Commission, published for the Commission by the University of Chicago Press as Chicago's Government, and published simultaneously by the Press under the title Modernizing a City Government.



CHICAGO HOME RULE COMMISSION

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THE HISTORY OF THE

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CHARLES THE FIRST
BY
JOHN BURNET
OF
THE
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FOREWORD

The Chicago Home Rule Commission was organized on November 9, 1953, subsequent to appointment by Mayor Martin H. Kennelly and confirmation by the City Council. The impetus for creation of the Commission by city ordinance came, at least in part, from a recommendation in the 1952 report of the Committee on City Expenditures ("Little Hoover" Committee) that steps be taken to adopt a modern charter for the City. In addition, the 1953 Illinois General Assembly had debated, but failed to pass, a bill providing for a comprehensive revision of the structure of Chicago's government.

The fifteen members of the Home Rule Commission were leaders of business, real estate and labor groups, and of the City Council. The chairman, Leverett S. Lyon, was retiring chief executive officer of the Chicago Association of Commerce and Industry. A distinguished scholar, Mr. Lyon had been Vice-President of the Brookings Institution, and Professor of Economics at the University of Chicago. Mr. Lyon gave virtually his full time to the organizational and operational phases of the Commission's work.

Rubin G. Cohn, Professor of Law, and Gilbert Y. Steiner, Research Associate Professor in the Institute of Government and Public Affairs, served as Staff Directors for the Commission, and, in that capacity, wrote most of the report which has been published by the University of Chicago Press both as "Chicago's Government" and as "Modernizing a City

1880

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Government." The Institute is pleased to reproduce, in substance, Chapter XVI which was prepared jointly by Messrs. Cohn and Steiner, and is used by permission of the publishers.

Royden Dangerfield, Director
Institute of Government and Public Affairs.

An Interpretive Summary of the Report
of the Chicago Home Rule Commission

The substance of the report of the Chicago Home Rule Commission is concerned with fulfilling the commission's somewhat nebulous directive to "give consideration to possible changes in form and structure that may be desirable for the advancement and modernization of Chicago's government and investigate and make a thorough study of all possible ways and means of securing the best measure of home rule for the government of Chicago."

Governmental Structure and Form

In determining the specifics for inclusion in its consideration of changes in form and structure of Chicago's government, the commission and its staff tended to be guided by three tests: (1) Has the issue been a persistent one in Chicago's political or administrative history? (2) Is the issue of sufficient importance to be a matter of concern in other major American cities? (3) Does the issue appear with a high degree of consistency in the business of Chicago's City Council or Mayor? These tests were by no means absolute. However, they served as guides which made it possible to delimit the scope of the inquiry into structure and form of government.

One of the most persistent political issues in Chicago in the twentieth century has been the question of the appropriate size and composition of the City Council. In concerning itself with this problem, the attention of the Home Rule Commission was focused initially on size per se, and on finding objective criteria to apply to the determination of

size. An examination of the size of representative bodies--particularly legislative bodies--indicated that there is no optimum size for effective deliberation or operation, and that there are no definitive criteria for determining an appropriate size for an aldermanic constituency in terms either of population or of area. Accordingly, the inquiry turned logically to the considerations that created the present 50-ward, single member district system.

The ward system was established to enable aldermen to service their constituents. The nature of the service function has changed materially, however, in the last three decades as a consequence of the increased professionalization of social service work, the development of service activities by trade and labor associations, and the coming of the so-called "welfare state." Taken together, these factors have made the service role of the alderman that of an information officer, distinguishing between governments and guiding his constituents to the governmental agency responsible for some particular function or service.

The consequence is a conclusion that the existing 50-ward system is an anachronism. It is not "evil" or necessarily inefficient, but it was established to meet a situation that no longer exists.

The question of introducing "at-large" councilmen into the composition of the council was considered against existing evidence as to the effects of such representation. There is no conclusive evidential support for the belief that a "higher-caliber" councilman will be forthcoming from the city at large than from a ward. However, there is no question but that

at-large councilmen would represent different combinations of interest than do aldermen from wards. City-wide interests should have an opportunity to compete, in open council, with ward interests. Public policy should reflect both interests, not because one is good and the other is evil, but because they are both important to Chicago.

In order to effectuate these conclusions, the commission recommends that the number of aldermanic districts in the city be reduced to 25 and that the City Council be composed of 1 alderman elected from each of these districts, plus 10 aldermen elected from the city at large. Elections should continue to be on nonpartisan ballots. The commission recommends appropriate General Assembly action and referendum approval, in order that the number of aldermanic districts in the city be reduced. Formal action by the council is not required.

The operation and procedures of the council are considered in detail. The commission expresses its belief in the desirability of deliberate action on ordinances, of roll-call votes covering a single subject only, and of making a final disposition of business. It is pointed out that the realization of these goals will necessitate a requirement that council action be by ordinance, introduced by a bill which should be given a title descriptive of the subject matter and printed prior to consideration; that the omnibus roll call covering numerous council actions be discontinued; and that measures not finally voted upon within two years after presentation be considered officially lost. In addition, the proper functioning of the council as a legislative body will require that the number and jurisdiction

of council committees be adjusted so that members will serve on a maximum of three committees and that committee jurisdiction be defined in terms of the major departments of city government.

Many of the procedural changes deemed desirable by the commission can be achieved by council action without the need for state legislation or referendum approval. Other recommendations in this field will require action by the General Assembly, and still others will also require referendum approval by the city's voters. Twenty-three specific recommendations, together with a note regarding necessary steps for implementation, are set forth at the conclusion of the discussion of procedures of the council.

A second major area in the consideration of structure and form of government is concerned with legislative-executive relationships. These relationships are first examined in the field of fiscal and budgetary controls. An analysis of the city's present budget operations and a comparison of those operations with generally accepted criteria for effective fiscal and budgetary activity leads the commission to recommend that the city adopt an executive-type budget, developed by the mayor's office and representing the coordinated program plan which the mayor proposes for the budget year. It is the commission's view that the adoption of an executive-budget plan would fix responsibility for planning, facilitate development of coordinated program planning, help to attain consistency and uniformity in estimates, and strengthen the executive function.

An executive-budget plan will require that the position of budget director be transferred from the finance committee to the mayor's office.

To be most effective, the office of budget director should be enlarged to provide for sections responsible for (1) preparation of budget estimates and control of appropriated funds; (2) administrative analysis, and management-improvement studies; and (3) budget reporting.

It is recommended that a performance-type budget be adopted in lieu of the present line-item appropriations to objects. The important difference that such change would make is that the present line-item object detail would not be incorporated into the appropriation ordinance itself. The present procedure makes each of the detailed object estimates a legal limitation.

The executive budget and the performance budget are the principal fiscal recommendations developed. Sundry related recommendations are detailed, however, including some dealing with classification of accounts, transfers in the budget, performance reporting, capital budgeting, and other matters of this character.

The consideration of legislative-executive relationships is subsequently carried into the so-called "quasi-administrative" powers presently exercised by the council. The fields of activity in which these quasi-administrative powers are most evident are traffic controls, purchasing and contract approval, zoning administration, and the issuance of driveway and similar permits. In each of these fields it was deemed important to determine whether administrative control by the City Council or by an executive department would better insure that all residents of the city could expect equal treatment of applications for municipal services or in the imposition of controls.

Applying this test, together with an evaluation of the effect of these activities on council operations and aldermanic responsibility, brought the commission to the following conclusions and recommendations: (1) Routine traffic matters, of which the designation of one-way streets is an illustration, should be made the concern of the Bureau of Street Traffic, guided by standards developed by the council. (2) The present requirement for council approval of contracts in excess of \$2,500 should be repealed. (3) Amendments to the zoning ordinance should be subject to Plan Commission recommendations, and where the council acts contrary to such recommendations, the reasons should be spread upon the council Journal. (4) Variations from the zoning ordinance should be the exclusive responsibility of the Board of Zoning Appeals, subject to judicial review under the Administrative Review Act. The statutes should be amended to incorporate appropriate standards to guide the Board of Zoning Appeals. (5) The issuance of driveway and related permits should be handled by the Department of Streets. The department should be guided in its operations by standards laid down by the council in a general ordinance.

The phase of the commission's study dealing with the mayor's office inquires into the several major activities which are believed to be the responsibility of the mayor, including relationships with his political party, with the public in general, administrative management, and the development of civic policy. The commission gave particular attention to an important trend in large American cities toward the use of a professional municipal administrator. Experience with the mayor-administrator plan in Philadelphia, Los Angeles, San Francisco, New York, and other cities is considered, with a view to determining appropriate uses of such an administrator.

The commission concludes that it is in the field of municipal administration that the desirability of assistance to the mayor most strongly suggests itself. Accordingly, it is recommended that the position of administrative officer be created and that the officer be charged with responsibility for administrative management of all city departments under the control of the mayor. The administrative officer, as conceived of in this report, should be an appointee of the mayor, subject to removal by the mayor. Certain desirable safeguards, in the form of formal qualifications and council confirmation, are spelled out in detail.

The commission directed its staff to include a recommendation which the staff had made to the commission, to the effect that a small staff, professionally trained in economics, public administration, and political science, be added to the mayor's office, to aid in the continuing development and improvement of civic policy and the general organization of the city's government. A belief behind this staff recommendation was the view that it is in the consistent development of civic policy that a mayor, fulfilling his other responsibilities with high competence, finds it most difficult to give adequate forward-looking thought.

Home Rule

The second major area of the commission's responsibility is an analysis of "all possible ways and means of securing the best measure of home rule" for the City of Chicago. "Home rule" is not defined in the ordinance creating and specifying the duties of the commission. Staff interpretation, however, concurred in by the commission, viewed the language

as a directive to give primary consideration to constitutional home rule as a possible technique for granting greater powers of local government to the city. This has been done. The analysis is directed mainly to a consideration of the adequacy of Chicago's powers of local government in the four primary areas of (1) structure and form of government, (2) services, (3) police powers, and (4) revenue powers, under the existing pattern of legislative grants, and a comparison of the scope or extent of such powers exercised by cities operating under constitutional grants of home-rule powers. The recommendations are based upon the results of this comparative analysis.

Preliminary to formulating any recommendations, the commission report treats of the general meaning of home rule; analyzes the legal and constitutional status of cities as governmental units; designates the methods by which powers are granted by the state to cities, namely (1) by constitutional provisions, (2) by statutory enactment, and (3) by a combination of constitutional and statutory methods; and defines the four principal areas in which powers are customarily granted to cities. It is concluded that home rule is a relative concept.

An analysis of constitutional home-rule provisions in a selected series of states notes the conceptual differences underlying such grants, and places particular emphasis upon the powers reserved to the legislature which affect the autonomy of the cities. The analysis supports the view, consistently reiterated in the report, that home rule is a relative concept which has no precise political or legal meaning.

It is emphasized that there is a need for a revaluation of the constitutional home-rule concept before it can become a useful technique of adjusted state-city relationships. Noted are some of the sensitive political determinations which must be made as a basis for an effective constitutional home-rule formula, and the difficulties which attend such determinations.

The analysis is developed to the conclusion that Chicago's powers of local government in the area of structure and form of its government are inadequate, both in relation to other municipalities in the state and to municipalities in constitutional home-rule states. No power of self-determination or selection among different forms of government exists in the Chicago government or electorate. It is also developed that it is in this area that constitutional home-rule grants have been particularly, if not exclusively, effective in freeing municipalities from dependence upon the state legislatures.

While a constitutional amendment might be a satisfactory means of giving a greater degree of freedom in making changes in the form and structure of the city government, it was concluded that this constitutional procedure was not desirable and would not be effective in the other fields of municipal government with which the commission was concerned. This being the case, the commission concluded that it would not be desirable to recommend an effort to obtain a constitutional grant of added power for this purpose alone. Accordingly, the commission recommended that legislative authority be sought by way of amendment to Article 21, Revised Cities and Villages Act (Chicago's "little charter"), permitting the Chicago City Council, or the Chicago

electorate by the initiative process, to propose changes in the form and structure of city government, subject to referendum approval, but without the necessity of prior state legislative approval. The recommendation further proposes that this legislative amendment be postponed to the 1957 session of the Illinois General Assembly, by reason of the fact that this approach is not wholly free from legal doubt. Rather than risk a judicial holding of the illegality of the entire amendment incorporating other changes recommended by this report, a risk which would be engendered by the comingling of the provisions concerning local powers to change the form and structure of government, the commission determined to recommend a postponement in the effectuation of this proposal until the 1957 session of the Illinois General Assembly.

If a subsequent judicial test of the legality of this proposal results in its sustainment, no further action would be necessary. If on the other hand, the proposal is held invalid, then resort to constitutional amendment would be proper. Since there is a serious legal doubt whether a constitutional amendment could be submitted to the people by action of the 1955 Illinois General Assembly (by virtue of the 1953 proposal for a reapportionment amendment), the delay involved in the recommendations offered is not so serious as it may at first appear.

The commission report next considers the services available to the people of Chicago through the agency of the city government and the several independent governmental units and agencies operating within or partly within the territorial limits of the city. It concludes that the

powers are substantially adequate for Chicago's needs, that legislative grants of powers are readily securable from the legislature, and, further, that a grant of constitutional home-rule powers would not increase the measure of local autonomy in many important service areas, by virtue of judicial holdings that such areas involve matters of state concern.

For these reasons it is recommended that such additional service powers as Chicago may need in the future be sought by way of legislative rather than constitutional grant. It is further recommended that a commission be established by the state legislature to investigate the need for the integration of a number of services afforded to the citizens of Chicago by the city government, by other governmental agencies within Chicago, and by those which extend beyond the boundaries of the city.

The commission considers the scope and adequacy of the police powers vested in the government of Chicago under legislative grant, and further considers the extent of police powers vested in cities under constitutional home-rule grants. The analysis concludes (1) that Chicago has a substantial measure of police power and that it has no great difficulty in securing additional legislative grants of such powers, except in the field of licensing for regulatory purposes; and (2) that constitutional home-rule cities enjoy substantially no greater measure of power in this area than do cities operating under direct legislative grants of authority.

Upon the basis of the foregoing, the recommendations deny the need of a constitutional grant of home rule in the field of police powers and suggest a legislative amendment in 1955 of Article 21 of the Revised

Cities and Villages Act, applicable to Chicago only and subject to referendum approval of the Chicago electorate, granting police power in the broader terms employed in the 1907 Chicago charter proposal, but expressly negating that such grant involves the power of licensing for revenue purposes.

The revenue powers of the City of Chicago are analyzed and contrasted with those of cities operating under constitutional home-rule grants. The analysis finds no material difference in status except in several limited instances.

The analysis further discloses that Chicago has been relatively successful in securing property tax powers from the legislature but markedly unsuccessful in securing broadly based nonproperty tax powers. It notes that a number of other major cities have a greater measure of power in the nonproperty field, legislatively granted, than does Chicago.

Because constitutional home-rule grants have not been generally effective in increasing municipal power in the revenue area, the commission concluded that there is no reason to suppose that such grants in the Illinois Constitution would materially aid in solving the revenue problems of Chicago. Accordingly, the commission does not recommend that an effort be made to obtain constitutional home rule in the interests of revenue for Chicago. It does recommend that authorization be asked of the legislature either for a permissive tax statute listing a series of powers, with authority in the city government to levy any or all of the taxes specified, or, as an alternative power, to levy one or more, but less than all, of the taxes specified.

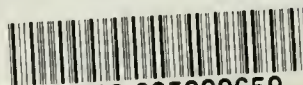


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